



General Assembly

January Session, 2017

Raised Bill No. 901

LCO No. 4281



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATION REGARDING ADOPTION OF A MODEL FOOD
CODE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 19a-36 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2017*):

4 (a) The Commissioner of Public Health shall establish a Public
5 Health Code and, from time to time, amend the same. The Public
6 Health Code may provide for the preservation and improvement of
7 the public health.

8 [(1) Said code may include regulations pertaining to retail food
9 establishments, including, but not limited to, food service
10 establishments, catering food service establishments and itinerant food
11 vending establishments and the required permitting from local health
12 departments or districts to operate such establishments.]

13 [(2)] (1) Drainage and toilet systems to be installed in any house or

14 building arranged or designed for human habitation, or field
15 sanitation provided for agricultural workers or migratory farm
16 laborers, shall conform to minimum requirements prescribed in said
17 code.

18 [(3)] (2) Said code may include regulations requiring toilets and
19 handwashing facilities in large stores, as defined in such regulations,
20 in shopping centers and in places dispensing food or drink for
21 consumption on the premises, for the use of patrons of such
22 establishments, except that the provisions of such regulations shall not
23 apply to such establishments constructed or altered pursuant to plans
24 and specifications approved or building permits issued prior to
25 October 1, 1977.

26 [(4)] The provisions of such regulations (A) with respect to the
27 requirement of employing a qualified food operator and any reporting
28 requirements relative to such operator, shall not apply to an owner or
29 operator of a soup kitchen who relies exclusively on services provided
30 by volunteers, and (B) shall not prohibit the sale or distribution of food
31 at a noncommercial function such as an educational, religious, political
32 or charitable organization's bake sale or potluck supper provided the
33 seller or person distributing such food maintains such food under the
34 temperature, pH level and water activity level conditions that will
35 inhibit the rapid and progressive growth of infectious or toxigenic
36 microorganisms. For the purposes of this section, a "noncommercial
37 function" means a function where food is sold or distributed by a
38 person not regularly engaged in the for profit business of selling such
39 food.

40 (5) The provisions of such regulations with respect to qualified food
41 operators shall require that the contents of the test administered to
42 qualified food operators include elements testing the qualified food
43 operator's knowledge of food allergies.]

44 [(6)] (3) Each regulation adopted by the Commissioner of Public

45 Health shall state the date on which it shall take effect, and a copy of
46 the regulation, signed by the Commissioner of Public Health, shall be
47 filed in the office of the Secretary of the State and a copy sent by said
48 commissioner to each director of health, and such regulation shall be
49 published in such manner as the Commissioner of Public Health may
50 determine.

51 ~~[(7)]~~ (4) Any person who violates any provision of the Public Health
52 Code shall be guilty of a class C misdemeanor.

53 Sec. 2. (NEW) (*Effective October 1, 2017*) (a) As used in this section
54 and sections 3 to 8, inclusive, of this act:

55 (1) "Catering food service establishment" means a business that is
56 involved in the (A) sale or distribution of food and drink prepared in
57 bulk in one geographic location for retail service in individual portions
58 in another location, or (B) preparation and service of food in a public
59 or private venue that is not under the ownership or control of the
60 operator of such business;

61 (2) "Certified food protection manager" means a food employee that
62 has supervisory and management responsibility and the authority to
63 direct and control food preparation and service;

64 (3) "Class 1 food establishment" means a food establishment that
65 only offers for retail sale (A) prepackaged food that is not time and
66 temperature controlled for safety, (B) commercially processed food
67 that (i) is time and temperature controlled for safety and heated for hot
68 holding, but (ii) is not permitted to be cooled, or (C) food prepared in
69 the establishment that is not time and temperature controlled for
70 safety;

71 (4) "Class 2 food establishment" means a retail food establishment
72 that does not serve a population that is highly susceptible to food-
73 borne illnesses and offers a limited menu of food that is prepared,
74 cooked and served immediately, or that prepares and cooks food that

75 is time and temperature controlled for safety and may require hot or
76 cold holding, but that does not involve cooling;

77 (5) "Class 3 food establishment" means a retail food establishment
78 that has an extensive menu of foods, many of which are time and
79 temperature controlled for safety and require complex preparation,
80 including, but not limited to, handling of raw ingredients, cooking,
81 cooling and reheating for hot holding;

82 (6) "Class 4 food establishment" means a retail food establishment
83 that serves a population that is highly susceptible to food-borne
84 illnesses, including, but not limited to, preschool students, hospital
85 patients and nursing home patients or residents, or that conducts
86 specialized food processes, including, but not limited to, smoking,
87 curing or reduced oxygen packaging for the purposes of extending the
88 shelf life of the food;

89 (7) "Cold holding" means maintained at a temperature of forty-one
90 degrees Fahrenheit or below;

91 (8) "Commissioner" means the Commissioner of Public Health or
92 the commissioner's designee;

93 (9) "Contact hour" means a minimum of fifty minutes of a training
94 activity;

95 (10) "Department" means the Department of Public Health;

96 (11) "Director of health" means the director of a local health
97 department or district health department appointed pursuant to
98 section 19a-200 or 19a-242 of the general statutes;

99 (12) "Food code" means the food code administered under section 3
100 of this act;

101 (13) "Food establishment" means an operation that (A) stores,
102 prepares, packages, serves, vends directly to the consumer or

103 otherwise provides food for human consumption, including, but not
104 limited to, a restaurant, catering food service establishment, food
105 service establishment, temporary food service establishment, itinerant
106 food vending establishment, market, conveyance used to transport
107 people, institution or food bank, or (B) relinquishes possession of food
108 to a consumer directly, or indirectly through a delivery service,
109 including, but not limited to, home delivery of grocery orders or
110 restaurant takeout orders or a delivery service that is provided by
111 common carriers. "Food establishment" does not include a vending
112 machine, as defined in section 21a-34 of the general statutes, a private
113 residential dwelling in which food is prepared under section 21a-62a of
114 the general statutes or a food manufacturing establishment, as defined
115 in section 21a-151 of the general statutes;

116 (14) "Food inspector" means a director of health, or his or her
117 authorized agent, or a registered sanitarian who has been certified as a
118 food inspector by the commissioner;

119 (15) "Food inspection training officer" means a certified food
120 inspector who has received training developed or approved by the
121 commissioner and been authorized by the commissioner to train
122 candidates for food inspector certification;

123 (16) "Food-borne illness" means illness, including, but not limited to,
124 illness due to heavy metal intoxications, staphylococcal food
125 poisoning, botulism, salmonellosis, shigellosis, *Clostridium*
126 *perfringens* intoxication and hepatitis A, acquired through the
127 ingestion of a common-source food or water contaminated with a
128 chemical, infectious agent or the toxic products of a chemical or
129 infectious agent;

130 (17) "Food-borne outbreak" means illness, including, but not limited
131 to, illness due to heavy metal intoxications, staphylococcal food
132 poisoning, botulism, salmonellosis, shigellosis, *Clostridium*
133 *perfringens* intoxication and hepatitis A, in two or more individuals,

134 acquired through the ingestion of common-source food or water
135 contaminated with a chemical, infectious agent or the toxic products of
136 a chemical or infectious agent;

137 (18) "Hot holding" means maintained at a temperature of one
138 hundred thirty-five degrees Fahrenheit or above;

139 (19) "Itinerant food vending establishment" means a vehicle-
140 mounted, self-contained, mobile food establishment;

141 (20) "Permit" means a written document issued by a director of
142 health that authorizes a person to operate a food establishment;

143 (21) "Temporary food service establishment" means a food
144 establishment that operates for a period of not more than fourteen
145 consecutive days in conjunction with a single event or celebration;

146 (22) "Time and temperature controlled for safety" means maintained
147 at a certain temperature for a certain length of time to prevent
148 microbial growth and toxin production; and

149 (23) "Variance" means a written document issued by the
150 commissioner that authorizes a modification or waiver of one or more
151 requirements of the food code.

152 Sec. 3. (NEW) (*Effective October 1, 2017*) (a) The commissioner shall
153 adopt and administer by reference the United States Food and Drug
154 Administration's Food Code, as amended from time to time, as the
155 state's food code for the purpose of regulating food establishments.

156 (b) The commissioner may adopt regulations, in accordance with
157 the provisions of chapter 54, to implement the provisions of this
158 section and sections 4 to 8, inclusive, of this act.

159 Sec. 4. (NEW) (*Effective October 1, 2017*) (a) No person, firm or
160 corporation shall operate or maintain any food establishment where
161 food or beverages are served or sold to the public in any town, city or

162 borough without obtaining a valid permit to operate from the director
163 of health of such town, city or borough, in a form and manner
164 prescribed by the director of health. The director of health shall issue a
165 permit or license to operate a food establishment upon receipt of an
166 application if the food establishment meets the requirements of this
167 section. All food establishments shall comply with the food code.

168 (b) All food establishments shall be inspected by a certified food
169 inspector in a form and manner prescribed by the commissioner. The
170 Commissioner of Public Health may, in consultation with the
171 Commissioner of Consumer Protection, grant a variance for the
172 requirements of the food code if the Commissioner of Public Health
173 determines that such variance would not result in a health hazard or
174 nuisance.

175 (c) No permit to operate a food establishment shall be issued by a
176 director of health unless the applicant has provided the director of
177 health with proof of registration with the department and a written
178 application for a permit in a form and manner prescribed by the
179 department. Temporary food establishments and certified farmers'
180 markets, as defined in section 22-6r of the general statutes, as amended
181 by this act, shall be exempt from registering with the Department of
182 Public Health.

183 (d) Each class 2 food establishment, class 3 food establishment and
184 class 4 food establishment shall employ a certified food protection
185 manager. No person shall serve as a certified food protection manager
186 unless such person has satisfactorily passed a test as part of a food
187 protection manager certification program that is evaluated and
188 approved by an accrediting agency recognized by the Conference for
189 Food Protection as conforming to its standards for accreditation of
190 food protection manager certification programs. A certified food
191 inspector shall verify that the food protection manager has been
192 certified upon inspection of the food establishment.

193 Sec. 5. (NEW) (*Effective October 1, 2017*) (a) No person shall engage
194 in the practice of a food inspector unless such person has obtained a
195 certification from the commissioner in accordance with the provisions
196 of this section. The commissioner shall develop a training and
197 verification program for food inspector certification that shall be
198 administered by the food inspection training officer at a local health
199 department.

200 (1) Each person seeking certification as a food inspector shall submit
201 an application to the department on a form prescribed by the
202 commissioner and present to the department satisfactory evidence that
203 such person (A) is sponsored by the director of health in the
204 jurisdiction in which the applicant is employed to conduct food
205 inspections, (B) possesses a bachelor's degree or three years of
206 experience in a regulatory food protection program, (C) has
207 successfully completed a training and verification program, (D) has
208 successfully completed the field standardization inspection prescribed
209 by the commissioner, and (E) is not involved in the ownership or
210 management of a food establishment located in the applicant's
211 jurisdiction.

212 (2) Each director of health sponsoring an applicant for certification
213 as a food inspector shall submit to the commissioner a form
214 documenting the applicant's qualifications and successful completion
215 of the requirements described in subdivision (1) of this subsection.

216 (3) Certifications issued under this section shall be subject to
217 renewal once every three years. A food inspector applying for renewal
218 of his or her certification shall demonstrate successful completion of
219 twenty contact hours in food protection training, as approved by the
220 commissioner, and reassessment by the food inspection training
221 officer.

222 (b) A certified food inspector shall conduct an inspection of a food
223 establishment in a form and manner prescribed by the commissioner

224 to determine compliance with the food code. The director of health
225 shall ensure all food establishments are inspected at a frequency
226 determined by their risk classification. Such director of health shall
227 evaluate the food establishment's risk classification on an annual basis
228 to determine accuracy. More frequent inspections may be conducted to
229 ensure compliance with the food code. Each food establishment
230 classification shall be inspected pursuant to the following schedule:

231 (1) Class 1 food establishments shall be inspected at intervals not to
232 exceed three hundred sixty days.

233 (2) Class 2 food establishments shall be inspected at intervals not to
234 exceed one hundred eighty days.

235 (3) Class 3 food establishments shall be inspected at intervals not to
236 exceed one hundred eighty days.

237 (4) Class 4 food establishments shall be inspected at intervals not to
238 exceed ninety days.

239 (5) Temporary food service establishments shall be inspected prior
240 to the issuance of a permit to operate and as often as necessary to
241 ensure compliance with the food code.

242 Sec. 6. (NEW) (*Effective October 1, 2017*) If a director of health has
243 reasonable cause to suspect the possibility of a food-borne illness or
244 outbreak, such director shall complete an investigation and take action
245 to control the illness or outbreak. Such action may include, but shall
246 not be limited to, securing employee morbidity histories, requiring
247 medical and laboratory examinations of an employee, modification of
248 a menu and any other restriction or action deemed necessary by such
249 director of health to control the illness or outbreak. A person who
250 violates any provision of sections 3 to 10, inclusive, of this act, or who
251 provides false information during an investigation, refuses to
252 cooperate with an investigation or otherwise impedes an investigation
253 that is conducted under this section or section 4 or 5 of this act shall be

254 guilty of a class C misdemeanor.

255 Sec. 7. (NEW) (*Effective October 1, 2017*) The owner or operator of a
256 food establishment may appeal to the director of health an order
257 issued by such director to correct inspection violations identified by
258 the food inspector or to hold, destroy or dispose of unsafe food, not
259 later than forty-eight hours after issuance of such order. The director of
260 health shall review the request for an appeal and, upon conclusion of
261 the review, may vacate, modify or affirm such order. If affirmed by the
262 director of health, the corrective actions specified by the food inspector
263 shall be so ordered by the director of health. An owner or operator of a
264 food service establishment who is aggrieved by the affirmation or
265 modification of an order by the director of health, including, but not
266 limited to, an order to suspend the permit or license to operate the
267 food service establishment, may appeal to the department pursuant to
268 section 19a-229 of the general statutes. During such appeal, the order
269 shall remain in effect unless the commissioner orders otherwise.

270 Sec. 8. (NEW) (*Effective October 1, 2017*) (a) Nothing in this section or
271 sections 3 to 7, inclusive, of this act shall limit the authority of directors
272 of health under chapter 368e or 368f of the general statutes.

273 (b) For purposes of this section and sections 3 to 7, inclusive, of this
274 act, the provisions of the general statutes and regulations of
275 Connecticut state agencies pertaining to certified farmers' markets
276 shall not limit the authority of the Commissioner of Agriculture and
277 the director of health to require a farmer to comply with the
278 requirements of sections 22-6r and 22-6s of the general statutes, as
279 amended by this act.

280 (c) The provisions of the food code that concern the employment of
281 a certified food manager and any reporting requirements relative to
282 such certified food manager (A) shall not apply to (i) an owner or
283 operator of a soup kitchen that relies exclusively on services provided
284 by volunteers, (ii) any volunteer who serves meals from a nonprofit

285 organization, including a temporary food service establishment and a
286 special event sponsored by a nonprofit civic organization, including,
287 but not limited to, school sporting events, little league food booths,
288 church suppers and fairs, or (iii) any person who serves meals to
289 individuals at a registered congregate meal site funded under Title III
290 of the Older Americans Act of 1965, as amended from time to time,
291 that were prepared under the supervision of a certified food manager,
292 and (B) shall not prohibit the sale or distribution of food at (i) a bed
293 and breakfast establishment that prepares and offers food to guests,
294 provided the operation is owner-occupied and the total building
295 occupant load is not more than sixteen persons, including the owner
296 and occupants, has no provisions for cooking or warming food in the
297 guest rooms, breakfast is the only meal offered and the consumer of
298 such operation is informed by statements contained in published
299 advertisements, mailed brochures and placards posted in the
300 registration area that the food is prepared in a kitchen that is not
301 regulated and inspected by the local health director, and (ii) a
302 noncommercial function, including, but not limited to, an educational,
303 religious, political or charitable organization's bake sale or potluck
304 supper, provided the seller or person distributing the food maintains
305 the food at the temperature, pH level and water activity level
306 conditions that will inhibit the growth of infectious or toxigenic
307 microorganisms. For the purposes of this subsection, "noncommercial
308 function" means a function where food is sold or distributed by a
309 person not regularly engaged in the business of selling such food for
310 profit.

311 Sec. 9. Subsection (d) of section 22-6r of the general statutes is
312 repealed and the following is substituted in lieu thereof (*Effective*
313 *October 1, 2017*):

314 (d) A food [service] establishment, as defined in section [19-13-B42
315 of the regulations of Connecticut state agencies] 2 of this act, may
316 purchase farm products that have been produced and are sold in
317 conformance with the applicable regulations of Connecticut state

318 agencies at a farmers' market, provided such establishment requests
319 and obtains an invoice from the farmer or person selling farm
320 products. The farmer or person selling farm products shall provide to
321 the food service establishment an invoice that indicates the source and
322 date of purchase of the farm products at the time of the sale.

323 Sec. 10. Section 22-6s of the general statutes is repealed and the
324 following is substituted in lieu thereof (*Effective October 1, 2017*):

325 (a) For purposes of this section: (1) "Certified farmers' market" has
326 the same meaning as provided in section 22-6r, as amended by this act,
327 and (2) ["food service establishment"] "food establishment" has the
328 same meaning as provided in section [19-13-B42 of the regulations of
329 Connecticut state agencies] 2 of this act.

330 (b) Any permit or license to operate a food [service] establishment
331 that is issued by a municipal health department or health district to a
332 farmer for the purpose of such farmer's participation in a certified
333 farmers' market within the jurisdiction of such municipal health
334 department or health district shall be valid for the purpose of
335 operating a food [service] establishment at any certified farmers'
336 market in the state, provided (1) such operation is in accordance with
337 the menu items and food preparation processes approved by such
338 issuing municipal health department or health district, or (2) such
339 operation utilizes menu items or food preparation processes that are
340 substantially similar to the menu items and food preparation processes
341 approved by such issuing municipal health department or health
342 district. Not later than fourteen days prior to commencing the
343 operation of a food [service] establishment in a municipality that is
344 within the jurisdiction of a municipal health department or health
345 district that did not issue a permit or license to such farmer, a notice of
346 intent to commence such operation shall be sent by such farmer to the
347 municipal health department or health district with such jurisdiction.
348 Such notice shall contain a copy of the municipal health department or
349 health district permit or license issued in accordance with this section

350 and a copy of any food service plan developed as part of the
351 application for such permit or license. Any permit or license issued in
352 accordance with the provisions of this section shall be valid for the
353 duration of the calendar year in which such permit or license was
354 issued.

355 (c) Any local director of health may take any regulatory action such
356 director deems necessary against any farmer who operates a food
357 [service] establishment within the jurisdiction of such health
358 department or district, as applicable, in order to ensure that such
359 farmer is in compliance with the Public Health Code, provided no local
360 director of health shall require any farmer to apply for or purchase a
361 permit or license to operate a food [service] establishment if such
362 farmer holds a valid permit or license issued by another municipal
363 health department or health district and is in compliance with the
364 provisions of subsection (b) of this section.

365 (d) Any farmer who operates a food [service] establishment in a
366 certified farmers' market in accordance with this section and the menu
367 items and food preparation processes approved by the municipal
368 health department or health district that issued such permit or license,
369 or who utilizes menu items or food preparation processes that are
370 substantially similar to the menu items and food preparation processes
371 approved by such issuing municipal health department or health
372 district, shall be exempt from the provisions of any ordinance of any
373 municipality or health district concerning the operation of a food
374 [service] establishment. No municipal health department or health
375 district shall require any farmer who applies for a permit or license to
376 operate a food [service] establishment at a certified farmers' market to
377 submit information regarding such farmer's ability to comply with any
378 ordinance of any municipality or health district concerning the
379 operation of such food [service] establishment.

380 Sec. 11. Subsection (a) of section 19a-36f of the general statutes is
381 repealed and the following is substituted in lieu thereof (*Effective*

382 *October 1, 2017*):

383 (a) No person shall use or require the use of disposable, nonsterile
384 or sterile natural rubber latex gloves at a retail food establishment,
385 including, but not limited to, a food [service] establishment, catering
386 food service establishment or itinerant food vending establishment.

387 Sec. 12. Subdivision (2) of subsection (a) of section 38a-313b of the
388 general statutes is repealed and the following is substituted in lieu
389 thereof (*Effective October 1, 2017*):

390 (2) The provisions of subdivision (1) of this subsection shall apply to
391 an insurance policy or rider delivered, issued for delivery, renewed,
392 amended or continued in this state for a food establishment classified
393 as a class [III or class IV] 1 or class 2 food establishment pursuant to
394 regulations adopted under section [19a-36] 3 of this act.

395 Sec. 13. Subsection (b) of section 52-557l of the general statutes is
396 repealed and the following is substituted in lieu thereof (*Effective*
397 *October 1, 2017*):

398 (b) Notwithstanding any provision of the general statutes, any food
399 establishment classified as a class [III or class IV] 3 or class 4 food
400 establishment pursuant to regulations adopted under section [19a-36] 3
401 of this act, that donates perishable food for use or distribution by a
402 temporary emergency shelter in accordance with the provisions set
403 forth in section 38a-313b shall not be liable for civil damages or
404 criminal penalties resulting from the nature, age, condition or
405 packaging of the food, unless it is established that the donor, at the
406 time of making the donation, knew or had reasonable grounds to
407 believe that the food was (1) embargoed or ordered destroyed by the
408 Department of Public Health or a local director of health, or an
409 authorized agent thereof, (2) adulterated, as defined in section 21a-101,
410 or (3) not fit for human consumption.

411 Sec. 14. Sections 19a-36c, 19a-36d and 19a-36e of the general statutes

412 are repealed. (Effective October 1, 2017)

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2017	19a-36(a)
Sec. 2	October 1, 2017	New section
Sec. 3	October 1, 2017	New section
Sec. 4	October 1, 2017	New section
Sec. 5	October 1, 2017	New section
Sec. 6	October 1, 2017	New section
Sec. 7	October 1, 2017	New section
Sec. 8	October 1, 2017	New section
Sec. 9	October 1, 2017	22-6r(d)
Sec. 10	October 1, 2017	22-6s
Sec. 11	October 1, 2017	19a-36f(a)
Sec. 12	October 1, 2017	38a-313b(a)(2)
Sec. 13	October 1, 2017	52-557l(b)
Sec. 14	October 1, 2017	Repealer section

Statement of Purpose:

To implement the recommendations of the Department of Public Health concerning the adoption of a model food code.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]